

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LILYA CHIRINKINA,

Petitioner,

v.

DAVID W. JENNINGS, et al.,

Respondents.

Case No. [18-cv-05980-JCS](#) (PR)

**ORDER TO SHOW CAUSE AND
ORDER DENYING MOTION TO
APPOINT COUNSEL, GRANTING
MOTION TO PROCEED INFORMA
PAUPERIS**

Dkt. Nos. 2 and 3

INTRODUCTION

Petitioner seeks federal habeas relief from her detention by Immigration and Customs Enforcement (ICE). The petition states cognizable claims. Respondents shall file a response to the petition on or before **January 22, 2019**, unless an extension is granted.

BACKGROUND

Petitioner, a native and citizen of Uzbekistan, has been held by ICE since October 2017 pending removal. She has consented to magistrate judge jurisdiction. (Dkt. No. 5.)

STANDARD OF REVIEW

The Court may entertain a petition for writ of habeas corpus from a person claiming to be “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). A district court considering an application for a writ of habeas corpus shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

Under section 2241, alien detainees can properly challenge “the extent of the Attorney General’s authority” to detain a removable alien under the general detention

1 statutes. *Zadvydas v. Davis*, 533 U.S. 678, 687-89 (2001); *see also Denmore v. Kim*, 538
2 U.S. 510, 516-17 (2003).

3 DISCUSSION

4 Petitioner alleges that her indefinite detention violates her constitutional and
5 statutory rights, including her right to a bond hearing. When liberally construed, the
6 petition states cognizable claims.

7 MOTION TO APPOINT COUNSEL

8 Petitioner's motion to appoint counsel is DENIED. (Dkt. No. 2.) The case does not
9 present factually or legally complex issues nor are there other reasons justifying the
10 appointment of counsel. 18 U.S.C. § 3006A.

11 CONCLUSION

12 1. The Clerk shall serve a copy of this order, the petition and all attachments
13 thereto, on respondents. The Clerk shall also serve a copy of this order on petitioner.

14 2. On or before **January 22, 2019**, respondents shall file with the Court and serve
15 on petitioner an answer showing cause why a writ of habeas corpus should not be granted
16 based on petitioner's cognizable claims.

17 3. If petitioner wishes to respond to the answer, she shall do so by filing a traverse
18 with the Court and serving it on respondents within thirty (30) days of the date the answer
19 is filed.

20 4. In lieu of an answer, respondents may file, on or before **January 22, 2019**, a
21 motion to dismiss on procedural grounds. If respondents file such a motion, petitioner
22 shall file with the Court and serve on respondents an opposition or statement of non-
23 opposition within thirty (30) days of the date the motion is filed, and respondents shall file
24 with the Court and serve on petitioner a reply within fifteen (15) days of the date any
25 opposition is filed.

26 5. Petitioner is reminded that all communications with the Court must be served on
27 respondent by mailing a true copy of the document to respondents.

28 6. It is petitioner's responsibility to prosecute this case. Petitioner must keep the

1 Court and respondents informed of any change of address and must comply with the
2 Court's orders in a timely fashion. Failure to do so may result in the dismissal of this
3 action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

4 7. Upon a showing of good cause, requests for a reasonable extension of time will
5 be granted provided they are filed on or before the deadline they seek to extend.

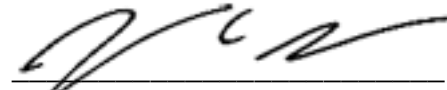
6 8. Petitioner's motion for the appointment of counsel is DENIED. (Dkt. No. 2.)

7 9. Petitioner's motion to proceed *in forma pauperis* is GRANTED. (Dkt. No. 3.)

8 10. The Clerk shall terminate Dkt. Nos. 2 and 3.

9 **IT IS SO ORDERED.**

10 **Dated:** November 14, 2018

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13 JOSEPH C. SPERO
14 Chief Magistrate Judge
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NORTHERN DISTRICT OF CALIFORNIA

LILYA CHIRINKINA,
Plaintiff,

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CERTIFICATE OF SERVICE

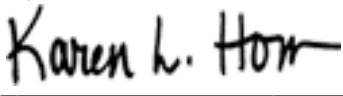
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 14, 2018, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lilya Chirinkina ID: A Number: 75729501
Mesa Verde Detention Facility
425 Golden State Avenue
Bakersfield, CA 93301

Dated: November 14, 2018

Susan Y. Soong
Clerk, United States District Court

By: 
Karen Hom, Deputy Clerk to the
Honorable JOSEPH C. SPERO